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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

In re:  
 EB HOLDINGS II, INC.,  
 Debtor.  
 \_\_\_\_\_  
 EB HOLDINGS II, INC. and QXH II, INC.,  
 Plaintiffs,  
 v.  
 ILLINOIS NATIONAL INSURANCE  
 COMPANY, CONTINENTAL  
 CASUALTY COMPANY, FEDERAL  
 INSURANCE COMPANY, BEAZLEY  
 INSURANCE COMPANY, INC., AXIS  
 INSURANCE COMPANY, ACE  
 AMERICAN INSURANCE COMPANY,  
 IRONSHORE INDEMNITY INC.,  
 FREEDOM SPECIALTY INSURANCE  
 COMPANY, ARCH INSURANCE  
 COMPANY and ASPEN SPECIALTY  
 INSURANCE COMPANY,  
 \_\_\_\_\_  
 Defendants.

Chapter 11  
 Case No.: BK-S-19-16364-MKN  
 Adv. Pro. No. 20-01010-MKN  
**Case No. 2:20-cv-000564-RFB-DJA**  
**STIPULATED ORDER WITHDRAWING  
 PENDING MOTION AND CLOSING  
 CASE**

1 IT IS HEREBY STIPULATED and AGREED, by and between Plaintiffs EB Holdings II,  
 2 Inc. (“EBH”), by and through its counsel, the law firm of Garman Turner Gordon LLP, QXH II,  
 3 Inc. (“QXH II,” and together with EBH, the “Plaintiffs”), by and through its counsel, the law firms  
 4 of K&L Gates LLP and Ghandi Deeter Blackham, and Arch Insurance Company (“Arch”), by and  
 5 through its counsel, the law firm of Foley & Lardner LLP, as follows:

6 WHEREAS on September 30, 2019, EBH filed its Chapter 11 bankruptcy petition in the  
 7 United States Bankruptcy Court for the District of Nevada (the “Bankruptcy Court”), thereby  
 8 commencing chapter 11 case no. 19-16364-MKN.

9 WHEREAS, on January 16, 2020, EBH and QXH II filed a *Complaint* in the Bankruptcy  
 10 Court, thereby commencing adversary proceeding no. 20-01010-MKN (the “Adversary”).

11 WHEREAS, on March 20, 2020, Arch filed *Arch Insurance Company’s Notice of Motion*  
 12 *and Motion to Withdraw Reference of Adversary Proceeding Pursuant to 28 U.S.C. § 157(d);*  
 13 *Memorandum of Points and Authorities* [ECF No. 1] (the “Motion to Withdraw the Reference”).

14 WHEREAS, on April 28, 2018, the *Stipulation Dismissing Defendant Arch Insurance*  
 15 *Company Without Prejudice, Withdrawing Pending Motions, and Vacating Hearing* (the  
 16 “Stipulation”) was filed in the Adversary. The Stipulation, attached hereto as Exhibit 1, provided  
 17 for the withdrawal of the Motion to Withdraw the Reference and a related pleading and for the  
 18 dismissal of the Plaintiffs’ claims against Arch *without prejudice*.

19 WHEREAS, the Stipulation was approved by entry of the Order of the Bankruptcy Court  
 20 on April 29, 2020 (the “Dismissal Order”). A copy of the Dismissal Order is attached hereto as  
 21 Exhibit 2.

22 NOW, THEREFORE, the Plaintiffs and Arch hereby stipulate and agree that the Motion  
 23 to Withdraw the Reference is hereby withdrawn and case number 2:20-cv-00564-RFB-DJA may  
 24 be closed, with the parties to bear their own fees and costs.

25 Dated this 29th day of April, 2020.

GARMAN TURNER GORDON LLP

K&L GATES LLP

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*Attorneys for Arch Insurance Company*

**ORDER**

The Court, having reviewed and considered the Stipulation of the parties, and good cause appearing therefore, HEREBY ORDERS that: (1) the Motion to Withdraw Reference is withdrawn; and (2) case number 2:20-cv-00564-RFB-DJA is hereby closed, with the parties to bear their own fees and costs.

IT IS SO ORDERED this 17<sup>th</sup> day of June, 2020.

  
\_\_\_\_\_  
RICHARD F. BOULWARE, II  
UNITED STATES DISTRICT JUDGE

# **EXHIBIT 1**

# **EXHIBIT 1**

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**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEVADA**

In re:

EB HOLDINGS II, INC.,

Debtor.

Chapter 11

Case No.: BK-S-19-16364-MKN

EB HOLDINGS II, INC. and QXH II, INC.,

Plaintiffs,

v.

ILLINOIS NATIONAL INSURANCE  
COMPANY, CONTINENTAL  
CASUALTY COMPANY, FEDERAL  
INSURANCE COMPANY, BEAZLEY  
INSURANCE COMPANY, INC., AXIS  
INSURANCE COMPANY, ACE  
AMERICAN INSURANCE COMPANY,  
IRONSHORE INDEMNITY INC.,  
FREEDOM SPECIALTY INSURANCE  
COMPANY, ARCH INSURANCE  
COMPANY and ASPEN SPECIALTY  
INSURANCE COMPANY,

Defendants.

Adv. Pro. No. 20-01010-MKN

**STIPULATION DISMISSING  
DEFENDANT ARCH INSURANCE  
COMPANY WITHOUT PREJUDICE,  
WITHDRAWING PENDING MOTIONS,  
AND VACATING HEARING**

IT IS HEREBY STIPULATED and AGREED, by and between Plaintiffs EB Holdings II, Inc. (“EBH”), by and through its counsel, the law firm of Garman Turner Gordon LLP, QXH II, Inc. (“QXH II,” and together with EBH, the “Plaintiffs”), by and through its counsel, the law firms of K&L Gates LLP and Ghandi Deeter Blackham, and Arch Insurance Company (“Arch”), by and through its counsel, the law firm of Foley & Lardner LLP, as follows:

WHEREAS on September 30, 2019, EBH filed its Chapter 11 bankruptcy petition in the United States Bankruptcy Court for the District of Nevada, thereby commencing chapter 11 case no. 19-16364-MKN.

WHEREAS, on January 16, 2020, EBH and QXH II filed a *Complaint* in the United States Bankruptcy Court for the District of Nevada, thereby commencing this adversary proceeding, adversary no. 20-01010-MKN (the “Adversary”).

WHEREAS, on March 24, 2020, Arch filed its *Amended Notice of Motion and Motion to Dismiss Arch Insurance Company for Failure to State a Claim and Lack of Subject Matter Jurisdiction and Personal Jurisdiction; Memorandum of Point and Authorities in Support Thereof* [ECF No. 115] (the “Motion to Dismiss”).

WHEREAS, the Motion to Dismiss is scheduled for hearing on May 12, 2020, at 9:30 a.m.

WHEREAS, on March 20, 2020, Arch filed *Arch Insurance Company’s Notice of Motion and Motion to Withdraw Reference of Adversary Proceeding Pursuant to 28 U.S.C. § 157(d); Memorandum of Points and Authorities* [ECF No. 100] (the “Motion to Withdraw the Reference”),<sup>1</sup> thereby commencing District Court case number 2:20-cv-00564-RFB-DJA.

WHEREAS, the Plaintiffs and Arch have agreed to dismiss Arch from the Adversary *without prejudice* and to vacate all pending matters by and between them, with each party to bear its own attorneys’ fees and costs.

NOW, THEREFORE, subject to entry of an Order approving this Stipulation, the Plaintiffs and Arch hereby stipulate and agree as follows:

---

<sup>1</sup> A similar stipulated order is being filed in case number 2:20-cv-00564-RFB-DJA, pending in the United States District Court for the District of Nevada.

1           1.       Arch withdraws its Motion to Dismiss [ECF No. 115] and Motion to Withdraw the  
2 Reference [ECF No. 100];

3           2.       The May 12, 2020 hearing on the Motion to Dismiss may be vacated.

4           3.       The Plaintiffs' claims against Arch filed in this Adversary are dismissed *without*  
5 *prejudice*; and

6           4.       The Plaintiffs and Arch shall each bear their own attorneys' fees and costs incurred  
7 to date with respect to the Adversary.

8           Dated this 28th day of April, 2020.

9           GARMAN TURNER GORDON LLP

K&L GATES LLP

11       By: /s/ Talitha Gray Kozlowski  
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18       FOLEY & LARDNER LLP

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27       Los Angeles, California 90017  
28       Attorneys for Arch Insurance Company

# **EXHIBIT 2**

# **EXHIBIT 2**

  
Honorable Mike K. Nakagawa  
United States Bankruptcy Judge



Entered on Docket  
April 29, 2020

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**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEVADA**

In re:

EB HOLDINGS II, INC.,

Debtor.

Chapter 11

Case No.: BK-S-19-16364-MKN

EB HOLDINGS II, INC. and QXH II, INC.,

Plaintiffs,

v.

ILLINOIS NATIONAL INSURANCE  
COMPANY, CONTINENTAL  
CASUALTY COMPANY, FEDERAL  
INSURANCE COMPANY, BEAZLEY  
INSURANCE COMPANY, INC., AXIS  
INSURANCE COMPANY, ACE

Adv. Pro. No. 20-01010-MKN

**ORDER DISMISSING DEFENDANT  
ARCH INSURANCE COMPANY  
WITHOUT PREJUDICE,  
WITHDRAWING PENDING MOTIONS  
[ECF NOS. 100 and 115], AND VACATING  
HEARING**

**Vacated Hearing Date and Time:  
May 12, 2020, at 9:30 a.m.**

1 AMERICAN INSURANCE COMPANY,  
 2 IRONSHORE INDEMNITY INC.,  
 3 FREEDOM SPECIALTY INSURANCE  
 4 COMPANY, ARCH INSURANCE  
 5 COMPANY and ASPEN SPECIALTY  
 6 INSURANCE COMPANY,

7 Defendants.

8 Plaintiffs EB Holdings II, Inc. ("EBH"), by and through its counsel, the law firm of Garman  
 9 Turner Gordon LLP, QXH II, Inc. ("QXH II," and together with EBH, the "Plaintiffs"), by and  
 10 through its counsel, the law firms of K&L Gates LLP and Ghandi Deeter Blackham, and Arch  
 11 Insurance Company ("Arch"), by and through its counsel, the law firm of Foley & Lardner LLP,  
 12 entered into that certain *Stipulation to Dismiss Arch Insurance Company Without Prejudice,*  
 13 *Withdrawing Pending Motions, and Vacating Hearing* (the "Stipulation").<sup>1</sup> Good cause appearing  
 14 therefore;

15 **IT IS HEREBY ORDERED** that the Stipulation is approved in its entirety.

16 **IT IS FURTHER ORDERED** that Arch's Motion to Dismiss [ECF No. 115] and Motion  
 17 to Withdraw the Reference [ECF No. 100] are withdrawn.

18 **IT IS FURTHER ORDERED** that the May 12, 2020 hearing on the Motion to Dismiss is  
 19 vacated.

20 **IT IS FURTHER ORDERED** that the Plaintiffs' claims against Arch filed in this  
 21 Adversary are dismissed *without prejudice*.

22 **IT IS FURTHER ORDERED** that the Plaintiffs and Arch shall each bear their own  
 23 attorneys' fees and costs incurred to date with respect to the Adversary.

24 **IT IS SO ORDERED.**

25  
 26  
 27  
 28 <sup>1</sup> All capitalized, undefined terms shall have the meanings ascribed to them in the Stipulation.

1 GARMAN TURNER GORDON LLP

K&L GATES LLP

2  
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